

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SLY VAN BATTEN,

Plaintiff,

V.

FRESNO SUPERIOR COURT, et al.,

Defendants.

No. 1:21-cv-00693-NONE-EPG (PS)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
ACTION FOR FAILURE TO STATE A
CLAIM, AND DIRECTING THE CLERK OF
THE COURT TO CLOSE THIS CASE

(Doc. Nos. 6, 7)

Plaintiff Sly Van Batten (“Plaintiff”) is a state prison inmate proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Plaintiff brings claims against an unnamed Fresno County Superior Court judge, an unnamed deputy district attorney, and an unnamed attorney concerning a conviction he allegedly suffered as a juvenile.¹ On May 3, 2021, the assigned magistrate judge screened the complaint and determined that it failed to state a cognizable claim under 42 U.S.C. § 1983. (Doc. No. 6.) In particular, the magistrate judge found that the unnamed judge and deputy district attorney were immune from liability, that the unnamed attorney was not acting under color of state law for purposes of § 1983, and that plaintiff's claims were time-barred by the applicable statute of

¹ While plaintiff also listed an unnamed police officer as a defendant in the complaint, no specific allegations or claims were brought as to the police officer.

1 limitations. (*Id.* at 4-7.) The magistrate judge further found that the noted deficiencies of
2 plaintiff's complaint could not be cured by amendment and therefore recommended dismissal of
3 this action without leave to amend. (*Id.* at 8.) Plaintiff did not file any objections to those
4 findings and recommendations, and the time to do so has expired. However, plaintiff did file an
5 application to proceed *in forma pauperis* on May 10, 2021, even though he had already been
6 granted leave to proceed *in forma pauperis* in this case. (Doc. No. 7.)

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
8 *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings
9 and recommendations to be supported by the record and proper analysis.

10 Accordingly,

11 1. The findings and recommendations issued on May 3, 2021 (Doc. No. 6) are adopted in
12 full;

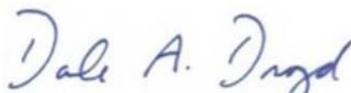
13 2. This action is dismissed without leave to amend and with prejudice;

14 3. The application to proceed *in forma pauperis* (Doc. No. 7) is denied as moot; and

15 4. The Clerk of the Court is directed to assign a district judge to this action for purposes
16 of closure and to close this case.

17 IT IS SO ORDERED.

18 Dated: June 29, 2021


19 UNITED STATES DISTRICT JUDGE

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